IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

MFA.No. 153 of 1994(E)

OPMV.445/1989 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE
.....

APPELLANT/PETITIONER:

PURAYIL MUJEEB (MINOR), S/O.ALIKUTTY,
AGED 15 YEARS REPRESENTED BY GUARDIAN
FATHER PARRAYIL ALIKUTTY, PARAYIL HOUSE
P.O.PAYAMBRA, KURUVATOOR AMSOM,
PARAMBRA DESOM, KOZHIKODE DT.

BY ADV. SMT.PRABHA.R.MENON

RESPONDENTS:
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1. A.P.KUNCHI MUHAMMED, AREEKARA POYILI HOUSE,
KURUVATOOR AMSOM & DESOM, KOZHIKODE DT.

2. N.NARAYANAN, NADUVAKKADE HOUSE,
THURUVATTARI, ELAYOOR, MALAPPURAM DIST.

3. THE NEW INDIA INSURANCE CO. LTD.,
NADAKKAV BRANCH, TRIPARI BUILDING,
EAST NADAKKAV, CALICUT.

BY ADV. SRI.B.S.KRISHNAN (SR.)
SRI.K.ANAND (A.201)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 27/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.PADMANABHAN NAIR, JJ.

M.F.A.NO.153 OF 1994

Dated 27th November, 2006

JUDGMENT

Koshy,J.

When appellant was aged 11 years, he met with a serious motor accident caused due to the negligence of the driver of the lorry bearing registration No.K.L.N.6367. The above lorry was insured with the third respondent insurance company. The lorry ran over him. The Tribunal found that the accident caused due to the negligence of the driver of the lorry and there was valid insurance. However, against a total claim of Rs.3,50,000/=, the Tribunal awarded only an amount of Rs.1,62,500/= with 9% interest from the date of application till the date of deposit. As a result of the accident, the appellant sustained fracture of pelvis, urethral rupture and rectal tear. Immediately an operation was conducted. Since there was a rectal injury, the motion had to be diverted through another artificial opening from the abdominal wall. An attempt was made to reconstruct his urethra using the skin from the perineum and scrotum. That attempt was failed and he is carrying on with that disability. The medical evidence (Exts.X1 and A1 series) shows that he had serious ailments which include perineal haematoma with blood per urethra and fracture of pelvis.

Supra pubic cystostomy and transverse colostomy were done. He was continuing treatment even after the date of award. However, the Tribunal has awarded only Rs.870/=, the amount of actual bills produced at that time. In hospital not only the child, his parents are also to be there and there are innumerable expenses to be borne by patients, which are not supported by bills. More than three operations were conducted and there was prolonged treatment and he was to be carried to the hospital. We are of the opinion that in view of the various operations and treatment conducted, the amount granted for medical expenses is too inadequate. According to the appellant, Rs.22,000/= has been spent as medical expenses at the time of filing the application and he was continuing the treatment. Even now he is spending money for treatment. It is also submitted that in view of the nature of injuries, his marital prospects was reduced. His studies were disrupted continuously for long time. Considering the nature of injuries, we have referred the matter to the Medical Board of Calicut Medical College Hosptial for assessing the permanent disability. The Medical Board certified that there is 18% permanent disability. The certificate reads as follows:

> "....., certify that he is allegedly ran over by a lorry, i fracture pelvis, urethral rupture and

> rectal injury. (Urology opinion sought) moderate degree of sphincter incompetence i narrow urethra and displacement of symphysis pubis and is physically handicapped. His percentage of permanent disability due to the injury is 18% Eighteen percent and occupational disability due tot he injury is ....."

We are of the opinion that compensation granted for a 11 year old boy with 18% disability is adequate and reasonable. However, the Tribunal should have granted complete reimbursement of medical, treatment and incidental expenses. In the above circumstances, Rs.20,000/= more is directed to be deposited by the third respondent towards reimbursement of medical expenses with 9% interest from the date of application till the date of deposit.

The appeal is allowed in part.

J.B.KOSHY
JUDGE

K.PADMANABHAN NAIR
JUDGE

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